# NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
# SUSTAIN AND SERVE NJ GRANT AGREEMENT

This Sustain and Serve NJ Grant Agreement (hereinafter the "Agreement") dated as of the Effective Date set forth below between **HEALTHBARN FOUNDATION INC.** having its principal offices at 1099 Wall Street West, Ste. 170, Lyndhurst, New Jersey 07071 (hereinafter the "Grantee"), and the **NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY,** a body corporate and politic organized and existing under the authority of N.J.S.A. 34:1B-1 et seq., having its offices at 36 West State Street, PO Box 990, Trenton, New Jersey 08625-0990, (hereinafter referred to as the "Authority" or "Grantor"), (collectively the "Parties").

## WITNESSETH:

**WHEREAS**, on March 9, 2020, Governor Philip Murphy issued Executive Order 103 ("EO103"), declaring a State of Emergency and a Public Health Emergency to ramp up New Jersey's efforts to contain the spread of the COVID-19/novel coronavirus ("COVID-19 Emergency") and on March 20, 2020, Governor Murphy issued Executive Order 107 ("EO107"), requiring social distancing; and

**WHEREAS**, businesses classified as "Food Services and Drinking Places" under NAICS code 722 have been disproportionately impacted by the COVID-19 Emergency, because of caps on location dining and unusual costs incurred to adapt business models for safe operations, the Authority has established the Sustain and Serve NJ Grant Program (the "Grant Program" or "Program") to make grants available to entities to support prospective expenses directly tied to bulk purchasing of meals from qualifying New Jersey based restaurants impacted by COVID-19, approved by the Authority board on November 13, 2020; and

**WHEREAS**, the Authority is authorized to enter into the Agreement with the Grantee in accordance with the Program specifications approved by the Authority at its November 13, 2020 board meeting, and as amended by the Authority at its February 10, 2021 board meeting, and as such specifications may be amended from time to time; and

**WHEREAS**, the Authority has found, on the basis of the information contained in Grantee's application dated 7/11/2021 ("Application") and any and all other documentation that may have been submitted by Grantee in support of its Application, that Grantee qualifies for participation in the Sustain and Serve NJ Grant Program; and

**WHEREAS**, the Parties desire to set forth the terms and conditions upon which the Grantee will participate in the Program ("Project") and the conditions under which the Authority will advance grant funds to Grantee if requested; and

**WHEREAS**, the Project would benefit the mission and goals of the Parties as well as the State of New Jersey; and

**WHEREAS**, the Parties agree to undertake and carry out in cooperation with each other the various tasks and obligations hereinafter set forth.

**NOW THEREFORE**, in consideration of the mutual promises and covenants made herein and other good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, is agreed as follows:

1. **Definitions.** The following terms shall have the following meaning when used in this Agreement, unless the context clearly indicates otherwise.

**"Certification Regarding Lobbying"** means the certification attached as **Exhibit C** attached hereto and made a part hereof.

**"COVID-19 Public Health Emergency Assignment and Subrogation Agreement"** means the agreement regarding Duplication of Benefits, attached hereto and made a part hereof as **Exhibit B**.

**"DEP"** means the New Jersey Department of Environmental Protection.

**"DOB Affidavit"** means the affidavit regarding Duplication of Benefits attached hereto as **Exhibit D** and made a part hereof.

**"Eligible Restaurant Participants"** are qualifying restaurants from which Grantee may seek reimbursement for meals purchased that (1) have been in operation since at least February 15, 2020; (2) have been negatively impacted as a result of COVID-19; (3) employ fifty (50) or fewer full-time equivalent employees (based on the restaurant's most recently filed WR-30 with the New Jersey Department of Labor and Workforce Development); (4) have a physical commercial location in New Jersey; (5) are legally registered to do business in New Jersey as evidenced by a valid New Jersey Business Registration Certificate; (6) are in good standing with the New Jersey Department of Labor and New Jersey Division of Taxation; (7) are in good standing with the New Jersey Division of Alcoholic Beverage Control (where applicable); and (8) possess a valid certification from municipal or county government inspection showing a current rating of Satisfactory per the New Jersey Retail Food Establishment Rating system.

**"Effective Date"** means the date last written below representing the date of execution of this Agreement by the respective Parties.

**"Grant Amount"** means the aggregate amount of all monies paid, or to be paid, by Grantor to Grantee pursuant to this Agreement up to a maximum of $2,000,000.00.

**"Grant Payment"** means the Grant funds paid directly to the Grantee for the reimbursement of qualifying meal purchases from Eligible Restaurant Participants as defined within this Agreement.

**"Grantee"** means a company that has (i) met the eligibility requirements of the Grant, (ii) agreed to and represented that it is able to meet the Grant requirements as defined and enumerated herein, and (iii) has executed this Agreement in connection with the Grant.

**"Grant Term"** means the Date of Grant Execution through January 31, 2022.

**"LWD"** means the New Jersey Department of Labor and Workforce Development.

**"Program" or "Grant Program"** means the Sustain and Serve NJ Grant Program as approved by the Authority board on November 13, 2020 and amended by the Authority board on February 10, 2021.

**"Project"** means the scope of work as described in the Grantee's application and any supporting documentation submitted to the Authority in furtherance thereof.

**"Requisition"** means the form attached hereto as **Exhibit E.**

**"State"** means the State of New Jersey as specifically referenced in this Agreement; and the State of New Jersey and the New Jersey Economic Development Authority as set forth herein.

**"Supporting Documentation for Reimbursement"** means documentation provided by the Grantee to the Authority at the time of a disbursement request initiated by Grantee, supporting that the expenses for which Grantee seeks reimbursement of were actually incurred and consistent with eligible uses of Grant funding, and shall include (1) the quantity of meals purchased; (2) the cost per meal; (3) the Eligible Restaurant Participant, as defined within this Agreement, from the which the meals were purchased; (4) the total amount paid; (5) a completed and executed requisition, attached hereto as **Exhibit E**; and (6) any other supplemental documentation as requested by the Authority to evidence actual costs incurred by Grantee eligible for reimbursement.

**"Sustain and Serve NJ Grant"** or **"Grant"** means a grant given pursuant to the Authority's Sustain and Serve NJ Program.

**"Tax Clearance Certificate"** means a current New Jersey Business Tax Clearance Certificate not more than 180 days old.

**"Uniform Administrative Requirements"** mean the requirements set forth in Exhibit A attached hereto and made a part hereof.

**2.** **<u>Grant Reimbursement Amount</u>**. The Grant Reimbursement Amount shall be determined based on timely request and acceptable documentation submitted to the Authority by Grantee as defined in Section 3, whereby Grantee may be eligible for a flat rate reimbursement amount for each meal purchased from Eligible Restaurant Participants as defined in this agreement, up to a maximum of ten ($10) dollars per meal, and not to exceed a total amount of $2,000,000.00.

**3.** **<u>Grant Payment</u>**. The Grant Award amount will be disbursed incrementally as eligible projected expenses are incurred and disbursement is requested from the Authority by Grantee and shall be paid to Grantee pursuant to the reimbursement schedule attached hereto as **Exhibit F.** All disbursement requests submitted by Grantee to the Authority must be evidenced by Supporting Documentation for Reimbursement, as defined within this Agreement, that the expenses were actually incurred consistent with eligible uses of grant funding.

**4.** **<u>Covenants of Grantee</u>.** Grantee covenants and agrees that:

a. Grantee shall at all times during the Grant Term satisfy all eligibility criteria under Sustain and Serve NJ Grant Program, upon which the Authority relied in approving the Grantee as a participant in the Program and the Agreement.

b. Grantee shall be prohibited from reselling any meals purchased with Grant funding.

c. Grantee shall be responsible for providing all documentation verifying eligibility for themselves and any additional and/or subsequent Eligible Restaurant Participants, as defined within this Agreement, of Grantee's own choosing following the approval of Grantee's application by the Authority.

d. Grantee is solely responsible for the selection of any and all Eligible Restaurant Participants. The Authority assumes no responsibility for the selection of the Eligible Restaurant Participants, nor for the quality or quantity of the meals provided.

5. **<u>Representations and Warranties of Grantee</u>.**

a. Grantee has been duly organized and validly exists as a non-profit corporation under the laws of the State of New Jersey, has power to enter into this Agreement and has authorized the taking of all action necessary to carry out and give effect to the transactions contemplated by this Agreement.

b. To the best of Grantee's knowledge, and upon due inquiry, there is no action or proceeding pending or threatened against Grantee before any court or administrative agency that might adversely affect the ability of Grantee to perform its obligations under this Agreement and all consents, authorizations, and approvals of governmental bodies or agencies required in connection with the performance of Grantee's obligations under this Agreement have been obtained and will be obtained whenever required hereunder or by law.

c. Grantee represents and warrants that it (1) is not in violation of any statute administered by the LWD or the DEP; (2) it is not in violation of any rule or regulation issued by the LWD or DEP; and (3) it does not have any unpaid fines or penalties or otherwise have any outstanding payment due to the LWD or DEP that is not subject to a payment plan approved by LWD or DEP.

d. Neither the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prevented, limited by, or conflicts with or results in a breach of the terms, conditions, or provisions of any corporate restrictions or any evidence of indebtedness, agreement, or instrument of whatever nature to which Grantee is bound, or constitutes a default under any of the foregoing.

e. All tax returns and reports of Grantee required by law to be filed have been duly filed and all taxes, assessments, fees and other governmental charges upon Grantee or upon any of its respective properties, assets, income or franchises which are due and payable pursuant to any assessment received by Grantee have been paid other than those which are presently payable without penalty or interest. Nothing in this subparagraph is intended to preclude Grantee from exercising its lawful right to contest any tax, assessment, fee or other governmental charge.

f. All statements, representations and warranties made by Grantee in its application to Grantor, and in any materials furnished in support of that application were true when made, are true, in all material respects, as of the date hereof, and shall remain and be true and correct during the term of this Agreement, it being understood by Grantee that all such statements, representations and warranties have been relied upon by Grantor as an inducement to make the Grant and shall continue to be relied upon by Grantor in administering the Grant. Grantee further understands and agrees that, if, during the term of this Agreement, any such statements, representations and warranties become untrue or false, it shall have a duty to immediately notify the Grantor in writing of such fact.

g. The principal office of Grantee is located at 1099 Wall Street West, Ste. 170. All of the Grantee's books and records relating to the Sustain and Serve NJ Grant Program shall be located at Lyndhurst, NJ 07071. Grantee shall notify Grantor in writing of any change in the location of such books and records prior to any such relocation.

h. Grantee represents that it has at all times relevant to this Agreement been represented by advisors of its own selection, including, but not limited to, attorneys at law and/or certified public accountants; that it has not relied upon any statement, representation, warranty, agreement or information provided by Grantor; that it acknowledges that it is informed by its advisors of its respective rights, duties, and obligations with respect to the transaction which is the subject of this Agreement under all applicable laws, and that it has no set-offs, defenses or counterclaims against Grantor with respect to the transaction which is the subject of this Agreement. Further, the Grantee acknowledges that the Authority has strongly recommended that the Grantee obtain general liability insurance, but the Grantee agrees and acknowledges that any decision regarding general liability insurance has been made solely by the Grantee in consultation with its own advisors, including any insurance agents or brokers.

i. If during the duration of this Agreement the Grantee becomes aware of any facts, occurrences, information, statements, or events that render any of the foregoing representations or warranties herein untrue or materially misleading or incomplete, Grantee shall immediately notify Grantor in writing of such facts, occurrences, information, statements, or events.

The representations and warranties made in this Section shall survive termination of this Agreement.

**6. <u>Publicity</u>.** Grantee grants the Authority and the State the right to use Grantee's name and logo in public communications announcing or reporting this Agreement and listing the name and logo of Grantee on the Authority's and State's website(s) in relation to Grantee's participation in the Program. Grantee may request the Authority's prior written consent for the right to use the State's or Authority's name and logo in public communications announcing or reporting this Agreement or the Grantee's participation in this Program and on Grantee's website listing Grantee's transactions and news.

**7. <u>Records, Access and Maintenance</u>.** Grantee shall establish and maintain during the Grant Term such records as are required by the Authority hereof, and all relevant supporting documentation. The Parties further agree that records required by the Authority with respect to any questioned costs, litigation or dispute between the Authority and the Grantee shall be maintained for the time needed for the resolution of any such issue and that in the event of early termination of this Agreement, or if for any other reason the Authority shall require a review of the records related to the Grant, the Grantee shall, at its own cost and expense, segregate all such records from its other records, if any. The Grantee agrees to be subject to review and audit of any Payment by the Authority, any other agency or department of the State of New Jersey or the United States, including but not limited to, the Office of the State Comptroller and the Department of Labor and Workforce Development, and the United States Department of the Treasury.

The provisions of this Section shall survive termination of this Agreement for a period of five (5) years or any such later time period required by applicable federal law.

**8.** **<u>Default</u>.** Any one or more of the following shall constitute an event of default ("Event of Default") if during the Grant Term the default is not cured within thirty (30) business days after written notice of the default, provided, however, if the cure of such default reasonably requires more than thirty (30) business days after written notice as aforesaid, and Grantee demonstrates it has promptly initiated steps reasonably sufficient to cure the default at its own cost, is proceeding with due diligence, in good faith and with continuity to complete the curing of such default, then the Authority may, at its reasonable discretion, extend the time necessary to cure such default by a reasonably practical period necessary for Grantee to cure such default. Notwithstanding the foregoing, if such default is not cured within said period as may be extended, termination shall, in the discretion of the Authority, be effective at the conclusion thereof.

a. If Grantee has breached or failed to perform in any material respect any covenant or promise under this Agreement.

b. If any representation or warranty made by Grantee herein, in the application for the participation in the Grant, or, in any report, certificate, financial statement or other instrument furnished in connection with the subject matter of this Agreement is false or misleading in any material respect;

c. If any of the following has occurred: 1) Grantee has applied for, or consented to, the appointment of a receiver, trustee, or liquidator of all or a substantial portion of Grantee's assets; 2) Grantee has admitted in writing the inability to pay Grantee's debts as they mature; 3) Grantee has made a general assignment for the benefit of creditors; 4) Grantee has been adjudged a bankrupt, or filed a petition or an answer seeking an arrangement with creditors or taken advantage of any insolvency law, or an answer admitting the material allegations of a petition in bankruptcy or insolvency proceeding; 5) an order, judgment or decree has been entered, without the application, approval or consent of Grantee, by any court of competent jurisdiction approving a petition seeking reorganization of the Grantee, or appointing a receiver, trustee, or liquidator of Grantee or of a substantial part of its assets and such order shall continue unstayed and in effect for a period of forty-five (45) consecutive days; 6) Grantee has filed a voluntary petition in bankruptcy or has failed to remove an involuntary petition in bankruptcy within forty-five (45) days of the filing thereof.

d. The failure of Grantee to timely submit the documents, materials, and information required to be submitted by this Agreement.

e. The Authority has made a determination of debarment as to Grantee pursuant to its debarment/disqualification regulations set forth in <u>N.J.A.C.</u> 19:30-2.1 <u>et seq</u>. as amended from time to time.

f. If the Grantee has ceased to operate its business without prior written notice to and consent of the Authority.

g. If the Grantee has sold or assigned its rights under the Sustain and Serve NJ Grant Agreement, or any rights contained in this Agreement, to another company, including a related company other than wholly owned subsidiaries, without the prior written consent of the Authority.

**9. Remedies Upon Default.** Upon the existence of any Event or Events of Default, the Authority may, in its sole and absolute discretion, do any of the following, alone or in combination, after having first given Grantee notice and opportunity to cure the default in accordance with Section 8 hereof:

a. Require the Grantee to repay all or a portion of the Grant previously paid to Grantee under this Agreement.

b. Remove Grantee from the approved Sustain and Serve NJ Grant Program list and bar participation in the Grant Program in the future;

c. Terminate this Agreement; and

d. Take any other action legally available to it.

The Authority's rights under this Section shall survive termination of the Agreement.

**10. Taxes and Other Charges.** Grantee shall pay during the duration of this Agreement as the same become due, all taxes, assessments and governmental charges which may be required by law or contract to be paid by Grantee. Nothing in this Section 10 is intended to preclude Grantee from exercising its lawful right to contest any tax, assessment, fee or other governmental charge and, if authorized under law, withholding payment of such tax, assessment, fee, or other governmental charge during the period of such contest.

**11. Audits and Inspections.** At any time during normal business hours upon written notice and as often as the Authority may reasonably deem necessary, the Grantee shall make available to the Authority, for examination, and to appropriate State agencies or officials, all of its records with respect to matters covered by this Agreement and shall permit the Authority to audit, examine and make excerpts or transcripts from such records. Grantee shall maintain records to adequately verify all information provided in any reports or schedules required under this Agreement. The Grantee agrees to be subject to review and audit of any Payment by the Authority, any other agency or department of the State of New Jersey or the United States, including but not limited to, the Office of the State Comptroller and the Department of Labor and Workforce Development, and the United States Department of the Treasury. The provisions of this Section shall survive termination of this Agreement for a period of five (5) years or any such later time period required by applicable federal law.

**12. Assignment.** Grantee may not sell or assign its interests in this Agreement to another without the prior written consent of the Authority. Unless otherwise indicated by the Authority in writing, any obligations hereunder shall become the obligations of any assignee or successor of the Grantee.

**13. Forbearance Not a Waiver.** No act of forbearance or failure to insist on the prompt performance by Grantee of its obligations pursuant to this Agreement, either express or implied, shall be construed as a waiver by the Authority of any of its rights hereunder. In the event that any provision of this Agreement should be breached by Grantee and the breach may thereafter be waived by the Authority, such waiver shall be limited to the particular breach waived by Authority and shall not be deemed to waive any other breach.

**14.** **Indemnification.** Grantee covenants and agrees to indemnify and hold harmless the Authority, the State of New Jersey and their respective members, agents, officers, employees and servants from all losses, claims, damages, liabilities, and costs whatsoever (including all costs, expenses and reasonable counsel fees incurred in investigating and defending such losses and claims, etc.), brought by any person or entity, and caused by, related to, arising or purportedly arising out of, or from: (i) Grantee's participation in the Sustain and Serve NJ Grant Program; (ii) Grantee's selection of and association with any Eligible Restaurant Participant as defined within this Agreement; (iii) the performance by Grantee of its obligations under this Agreement; (iv) any loss, damage or injury to, or death of, any person occurring at or about or resulting from Grantee's participation in the Sustain and Serve NJ Grant Program; and (v) any damage or injury to property of Grantee or to the agents, servants, employees of Grantee, caused by the negligence, gross negligence and willful misconduct of any person, except for: losses, claims, damages, liabilities and costs arising from the gross negligence or willful misconduct of the Authority and its respective members, agents, officers, employees and servants. The provisions of this Section shall survive termination of this Agreement.

**15.** **Adherence to State and Federal Laws and Regulations.** Grantee shall comply with all applicable federal, state and local laws relevant to its participation in the Sustain and Serve NJ Grant Program.

**16.** **Applicability of Disqualification Regulations to Entities.** The Authority's disqualification/ debarment regulations, which are set forth in N.J.A.C. 19:30-2.1 through 2.7, shall be applicable to any entities with which Grantee merges, consolidates or combines. In the event that, in accordance with the procedures and provisions set forth in such regulations, the Authority makes a determination to disqualify any entity, then, notwithstanding anything contained in the Agreement to the contrary, no Grant Payment will be made. Based on the circumstances of (i) the disqualification and (ii) any previously disbursed Grant Payments, the Authority may seek to recover some or all of such payments.

**17.** **Miscellaneous.**

a. Governing Law. This Agreement shall be governed by the laws of the State of New Jersey.

b. Forum and Venue. All actions related to the matters which are the subject of this Agreement shall be forumed and venued in a court of competent jurisdiction in the County of Mercer and State of New Jersey.

c. Entire Agreement. This Agreement and its exhibits and any documents referred to herein constitute the complete understanding of the Parties and merge and supersede any and all other discussions, agreements and understandings, either oral or written, between the Parties with respect to the subject matter of this Agreement.

d. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid pursuant to applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions of this Agreement, unless the Authority shall in its sole and absolute discretion deem the invalidated provision essential to the accomplishment of the public purposes served by this Agreement, in which case the Authority has the right to terminate this Agreement and all benefits provided to Grantee hereunder upon the giving of thirty (30) calendar days prior notice as set forth in the following Section hereof.

e. Notices. All notices, consents, demands, requests and other communications which may be or are required to be given pursuant to any term of this Agreement shall be in writing and shall be deemed duly given when personally delivered or sent by United States mail, registered or certified, return receipt requested, postage prepaid, to the addresses set forth hereunder or to such other address as each party to this Agreement may hereafter designate in a written notice to the other party transmitted in accordance with this provision.

Authority: New Jersey Economic Development Authority
36 West State Street
PO Box 990
Trenton, NJ 08625-0990
Attention: Tara Colton, EVP for Special Projects
Telephone: (609) 802-2510
Email: TColton@njeda.com

Grantee: HealthBarn Foundation, Inc.
1099 Wall Street West, Ste. 170, Lyndhurst, NJ 07071
Attention: Stacey Antine, MS, RDN, Founder/Director
Telephone: 917-750-9802
Email: xxxxxx@xxxxxxxxxxxxxxxxxxxx.x

f. Amendments or Modifications. This Agreement may only be amended in writing executed by both Parties. Such Amendments or Modifications shall become effective only upon execution of same by both Parties.

g. Headings. Section headings contained in this Agreement are inserted for convenience only and shall not be deemed to be a part of this Agreement.

h. Contractual Liability Act. The rights and remedies of the Grantee under this Agreement shall be subject to the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq., the provisions of which are hereby incorporated herein by reference.

i. Tort Claims Act. The rights and remedies of the Grantee under this Agreement shall be subject to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq., the provisions of which are hereby incorporated herein by reference.

j. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument. This Agreement may be delivered by telecopier, e-mail, PDF or other facsimile transmission all with the same force and effect as if the same were a fully executed and delivered original manual counterpart.

k. Successors and Assigns. This Agreement shall be binding upon the successors and assigns.

l. No Third-Party Beneficiaries. This Agreement has been entered into solely by and among the parties that have executed this Agreement; except as otherwise expressly provided in this Agreement, this Agreement will not be deemed to create any rights in third parties or create any obligations of any party hereto to any such third parties.

m. Cross-Default. It is specifically understood and agreed that this Agreement is *cross-defaulted* with any existing assistance and any future assistance provided by the Authority and/or the State to Grantee and/or any of its Affiliates, including, but not limited to, entities that have common principals. For purposes of this cross-default, a principal of an entity shall be any executive officer, director, or general partner of the entity; any person or other entity directly or indirectly controlling the entity; or a person or other entity directly or indirectly owning or controlling ten percent (10%) or more of the entity's ownership interest.

n. Electronic signature on this Agreement shall be deemed to be valid execution and delivery as though an original ink. The parties explicitly consent to the electronic delivery of the terms of the transaction evidenced by this Agreement and affirm that their electronic signatures indicate a present intent to be bound by the electronic signatures and the terms of the Agreement. The electronic signature can be done either by ADOBE Acrobat or any other similar signature software that can be used for electronic signatures or by printing, manually signing, and scanning.

[SIGNATURE PAGE FOLLOWS]

**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be executed by their respective signatories duly authorized as of the date and year last written below ("Effective Date").

GRANTOR:

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY**

By: Arlene M. Clark
Arlene M. Clark
Director-Closing Services

Date: 8/30/21

GRANTEE:

**HEALTHBARN FOUNDATION INC.**

By: Stacey Antine
Name: Stacey Antine, Founder/Director
Authorized Officer
Date: 8/29/21

HealthBarn Foundation Inc.
PROD-00288832

## EXHIBIT A
## UNIFORM ADMINISTRATIVE REQUIREMENTS

HealthBarn Foundation Inc. ("Grantee") shall adhere to the following administrative requirements:

1. DUPLICATION OF BENEFITS

Grantee will adhere to 44 CFR 206.191, implementing Section 312 of the Stafford Act, commonly referred to Duplication of Benefits.

2. CONFLICT OF INTEREST

Grantee has reviewed and shall adhere to the State Uniform Ethics Code, available at https://www.nj.gov/ethics/docs/ethics/uniformcode.pdf, which is the Authority's code of ethics. Grantee will adhere to the State Conflict of Interest Law, N.J.S.A. 52:13D-1 et seq. and applicable federal ethics and conflict of interest law. No one who exercises any functions or responsibilities, or who is in a position to participate in a decision-making process or gain inside information, may obtain a financial interest or benefit from a Grant-assisted activity (or have a financial interest in any contract, subcontract, or agreement with respect to a Grant assisted activity.)

3. HATCH ACT

Grantee covenants that no Grant funds shall be used to finance the use of facilities or equipment for political purposes or engage in other partisan activities (e.g. candidate forums, voter transportation, or voter registration). Grantee will comply with the provisions of the Hatch Act that limit the political activity of employees and any federal laws or regulations governing political activity.

4. RELIGIOUS ACTIVITY

Grantee will not use the Grant for inherently religious activities.

5. RECORDS

Grantee will give the Authority, any other State entity, and the United States Department of the Treasury, and any of their representatives or agents, access to and the right to examine all records, books, papers, or documents related to the Grant.

6. LOBBYING

Grantee certifies that no federally appointed funds will be used for lobbying purposes regardless of level of government.

7. DRUG FREE WORKPLACE

Grantee will comply with the drug-free workplace requirements established by the Drug-Free Workplace Act.

8. COMPLIANCE WITH LAW

Grantee agrees to comply with all applicable federal, State and local laws, regulations and policies governing the Grant available under this Agreement to supplement rather than supplant funds otherwise available.

9. FINANCIAL MANAGEMENT AND PROCUREMENT:

Grantee shall comply with the following mandatory contract provisions:

a. If Grantee is a non-profit, guidelines for financial and compliance audits of federally assisted programs which are located at 2 CFR Part 200.

b. Recordkeeping requirements, which requires that all records be kept for a minimum of four (4) years after the terms of this Agreement; and

c. All requirements imposed by the State concerning special requirements of law, program requirements, and other administrative requirements.

10**.** NON-DISCRIMINATION

Any act of unlawful discrimination committed by Grantee or failure to comply with the following statutory and regulatory obligations when applicable shall be grounds for termination of this Agreement or other enforcement action; Grantee agrees to comply with the following, as applicable:

a. Title VI of the Civil Rights Act of 1964 and as amended in 1988, 42 U.S.C. §2000d et seq., as amended, which provide that no person in the United States shall on the grounds or race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which Grantee receives federal financial assistance and will immediately take any measures necessary to effectuate this assurance.

b. Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified individual shall, solely by reason of his or her handicap be excluded from participation, denied program benefits or subjected to discrimination on the basis of age under any program receiving federal funding assistance, with special provisions for grantees with 15 or more employees requiring a formal, written grievance procedure for resolution of complaints.

c. Section 508 of the Rehabilitation Act of 1973, requiring that electronic and information technology be accessible to people with disabilities, including employees and members of the public.

d. Age Discrimination Act of 1975, prohibiting discrimination on the basis of age.

e. Title II of the Americans with Disabilities Act of 1990, prohibiting discrimination and ensuring equal opportunity for persons with disabilities in employment, and commercial facilities.

SA ___________ (Initials)

**EXHIBIT B**
**COVID-19 Public Health Emergency**
**SUBROGATION AND ASSIGNMENT AGREEMENT**

This Subrogation and Assignment Agreement (hereinafter the "Agreement") made as of the Effective Date by and between HealthBarn Foundation Inc. located at 1099 Wall Street West, Ste. 170, Lyndhurst, New Jersey 07071 (hereinafter the “Grantee”), and the New Jersey Economic Development Authority, a body corporate and politic organized and existing under the authority of N.J.S.A. 34:1B-1 et seq., having its offices at 36 West State Street, P.O. Box 990, Trenton, New Jersey 08625-0990, (hereinafter referred to as the “Grantor” or the “Authority”), the above entities being hereinafter referred to as the “Parties”).

1. Definitions:

   “Duplication of Benefits” or “DOB” means receiving this Grant for an expense or lost revenue for which Grantee has received or will receive financial assistance under any other program, or from insurance or other source such that it has received assistance for a cumulative amount that exceeds its need, which duplicate benefit prohibited pursuant to 42 U.S.C. 5155(a).

   “DOB Proceeds” shall mean any Proceeds that are a DOB.

   “Grant Proceeds” means the funds provided to Grantee under the Sustain and Serve NJ Grant Program.

   “Proceeds” shall mean the proceeds or payments referred to in paragraph 2, whether they are from insurance, Federal Emergency Management Agency ("FEMA"), the Small Business Administration ("SBA"), or any other source, and whether or not such amounts are a DOB; and

2. In consideration of Grantee's receipt of the Grant Proceeds under Sustain and Serve NJ Grant Program (“Program”) administered by the Authority, Grantee hereby assigns to the Authority all of Grantee's future rights to reimbursement and all payments received from any grant, subsidized loan, or insurance policies of any type or coverage or under any reimbursement or relief program related to or administered by the FEMA, the SBA, or any other entity (a "Disaster Program") that was the basis of the calculation of Grantee's award to the extent of Grant Proceeds paid or to be paid to Grantee under the Program and that are determined in the sole discretion of Authority to be a duplication of benefits as provided in this Agreement.

3. Upon receiving any Proceeds not listed on the Duplication of Benefits Affidavit, Grantee agrees to immediately notify the Authority. The Authority will determine, in its sole discretion, if such additional amounts constitute a DOB.

4. If some or all of the Proceeds are determined to be a DOB, the Grantee shall pay to the Authority the portion that is a DOB. Grantee agrees to assist and cooperate with the Authority if the Authority elects to pursue any of the claims Grantee has against the insurers for reimbursement of DOB Proceeds under any such policies. Grantee's assistance and cooperation shall include but shall not be limited to allowing suit to be brought in Grantee's name(s) and providing any additional documentation with respect to such consent, giving depositions, providing documents, producing record and other evidence, testifying at trial and any other form of assistance and cooperation reasonably requested by the Authority. Grantee further agrees to assist and cooperate in the attainment and collection of any DOB Proceeds that the Grantee would be entitled to under any applicable Disaster Program.

5. If requested by the Authority, Grantee agrees to execute such further and additional documents and instruments as may be requested to further and better assign to the Authority, to the extent of the Grant Proceeds paid to Grantee under the Program, any amounts received under the Disaster Programs that are DOB Proceeds and/or any rights thereunder, and to take, or cause to be taken, all actions and to do, or cause to be done, all things requested by the Authority to consummate and make effective the purposes of this Agreement.

6. Grantee explicitly allows the Authority to request of any company with which Grantee held insurance policies or FEMA, the SBA, or any other entity from which Grantee has applied for or is receiving Proceeds, any non-public or confidential information determined to be reasonably necessary by the Authority to monitor and enforce its interest in the rights assigned to it under this Agreement. Grantee further gives Grantee's consent to any such company to release said information to the Authority.

7. If Grantee hereafter receives any DOB Proceeds, Grantee agrees to promptly pay such amounts to the Authority. Additionally, if Grantee received Grant Proceeds under the Program in an amount greater than the amount Grantee would have received if such DOB Proceeds had been considered in the calculation of Grantee's award, the Grantee agrees to promptly reimburse such amounts to the Authority.

8. In the event that the Grantee receives or is scheduled to receive any Proceeds not listed on its Duplication of Benefits Affidavit ("Subsequent Proceeds"), Grantee shall pay such Subsequent Proceeds directly to the Authority who will determine the amount, if any, of such Subsequent Proceeds that would be DOB Proceeds ("Subsequent DOB Proceeds"). Subsequent Proceeds in excess of Subsequent DOB Proceeds shall be returned to the Grantee.

9. Subsequent DOB Proceeds shall be disbursed as follows:

   a. If the Grantee has received full payment of the Grant Proceeds, any Subsequent DOB Proceeds shall be retained by the Authority.

   b. If the Grantee has received no payment of the Grant Proceeds, any Subsequent DOB Proceeds shall be used by the Authority to reduce the amount of the Grant Proceeds to the Grantee and all Subsequent DOB Proceeds shall be returned to the Grantee.

   c. If the Grantee has received a portion of the Grant Proceeds, any Subsequent DOB Proceeds shall be used, retained and/or disbursed in the following order: (A) Subsequent DOB Proceeds shall first be used to reduce the unpaid amount of the Grant Proceeds, and Subsequent DOB Proceeds in such amount shall be returned to the Grantee; and (B) any remaining Subsequent DOB Proceeds shall be retained by the Authority.

   d. If prior to disbursing any Grant Proceeds, the Authority makes the determination that the Grantee does not qualify to participate in the Program or the Grantee determines not to participate in the Program, the Subsequent DOB Proceeds shall be returned to the Grantee, and this Agreement shall terminate.

10. Once the Authority has recovered an amount equal to the Grant Proceeds paid to the Grantee, the Authority will reassign to Grantee any rights assigned to the Authority pursuant to this Agreement. Grantee represents that all statements and representations made regarding Proceeds received by it are true and correct as of the date of the Effective Date as defined in the Agreement.

11. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument. This Agreement may be delivered

by telecopier, e-mail, PDF or other facsimile transmission all with the same force and effect as if the same were a fully executed and delivered original manual counterpart.

12. Electronic signature on this Agreement shall be deemed to be valid execution and delivery as though an original ink. The parties explicitly consent to the electronic delivery of the terms of the transaction evidenced by this Agreement and affirm that their electronic signatures indicate a present intent to be bound by the electronic signatures and the terms of the Agreement. The electronic signature can be done either by ADOBE Acrobat or any other similar signature software that can be used for electronic signatures or by printing, manually signing, and scanning.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by their respective signatories duly authorized as of the date and year last written below ("Effective Date").

GRANTEE:

**HEALTHBARN FOUNDATION INC.**

By: Stacey Antine

Name: Stacey Antine

Title: Authorized Officer

Date: 8/29/21

GRANTOR:

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY**

By: Arlene M. Clark

Name: Arlene M. Clark

Title: Director-Closing Services

Date: 8/30/21

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**EXHIBIT C**
**CERTIFICATION REGARDING LOBBYING**
**CERTIFICATION FOR CONTRACTS, GRANTS,**
**LOANS AND COOPERATIVE AGREEMENTS**

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31 U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Electronic signature on this certification shall be deemed to be valid execution and delivery as though an original ink. The parties explicitly consent to the electronic delivery of the terms of the transaction evidenced by this certification and affirm that their electronic signatures indicate a present intent to be bound by the electronic signatures and the terms of the certification. The electronic signature can be done either by ADOBE Acrobat or any other similar signature software that can be used for electronic signatures or by printing, manually signing, and scanning.

Stacey Antine, Founder/Director

Typed Name & Title of Authorized Representative

Stacey Antine 8/29/21

Signature of Authorized Representative and Date

HealthBarn Foundation Inc.
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# EXHIBIT D
# DUPLICATION OF BENEFITS AFFIDAVIT
(“DOB Affidavit”)

**Duplication of Benefits Affidavit**

Please provide below all sources of funds that the entity has been awarded and/or received as a result of COVID-19 for the purpose of supplementing prospective expenses directly tied to bulk purchasing of meals from qualifying New Jersey based restaurants impacted by COVID-19. Sources of funds include, but are not limited to: Federal, State and local loan/grant programs, private or bank loans, non-profit donations or insurance proceeds. Please indicate below the amount allocated to your entity from any and all funding sources.

| Source of Funds | Amount Received | Application/Policy # and/or reference to attached document |
|---|---|---|
| | | |
| | | |
| | | |
| | | |

The undersigned, on behalf of and as a duly authorized agent and representative of HealthBarn Foundation Inc. (the “Grantee”) certifies that it has disclosed to the New Jersey Economic Development Authority in this affidavit all government programs, insurance, and other sources of funds, proceeds or compensation received or to be received for the purpose of supplementing prospective expenses directly tied to bulk purchasing of meals from qualifying New Jersey based restaurants impacted by COVID-19 between the date of grant execution and January 31, 2022.

The Company acknowledges that it may be prosecuted by Federal, State, or local authorities and/or that repayment of all related funds may be required in the event that it makes or files false, misleading, or incomplete statements or documents.

Electronic signature on this affidavit shall be deemed to be valid execution and delivery as though an original ink. The parties explicitly consent to the electronic delivery of the terms of the transaction evidenced by this affidavit and affirm that their electronic signatures indicate a present intent to be bound by the electronic signatures and the terms of the affidavit. The electronic signature can be done either by ADOBE Acrobat or any other similar signature software that can be used for electronic signatures or by printing, manually signing, and scanning.

Stacey Antine

Signature

HealthBarn Foundation, Inc.

Name

Stacey Antine, Founder/Director

Authorized Officer

8/29/21

Date

HealthBarn Foundation Inc.
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**EXHIBIT E**
**FORM OF REQUISITION**

## Sustain and Serve NJ
## GRANT REQUISITION NO.: _________

**INSTRUCTIONS**: **This form must be used to request Sustain and Serve NJ disbursements.**

1. Requisitions are limited to once per month for August, September, October, November, January and February in the aggregate amount of not less than $20,000 unless specifically approved by the New Jersey Economic Development Authority ("NJEDA").
2. Grantees must submit Requisitions with supporting invoices that include, at minimum:
   a. Restaurant name
   b. Date of purchase
   c. Description of purchase(s)
   d. Quantity purchased
   e. Unit Price
   f. Total Amount Paid
3. All funding requests must be submitted to NJEDA by February 4, 2022.

The undersigned, on behalf of HealthBarn Foundation Inc. (the "Grantee"), hereby requisitions the following wire transfer of funds from NJEDA:

| | | Controller/MIS Use Only | |
|---|---|---|---|
| Payee/Grantee: | Amount: | Date | Wire # |
| HealthBarn Foundation Inc. | | | |

**WIRE INSTRUCTIONS**

NJEDA is instructed to transfer funds electronically to the Grantee to the account detailed below:

| | |
|---|---|
| Grantee's full name and address: | |
| Name and full address of Grantee's bank: | |
| Grantee's account number and account type: | |
| Grantee bank's routing number: | |

HealthBarn Foundation Inc.
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| | |
|---|---|
| Grantee’s SWIFT or BIC code (if applicable): | |
| Transfer amount: | |
| Grant Requisition #: | |

**CERTIFICATION**

The undersigned, a duly authorized representative of Grantee, hereby certifies to the Authority on his/her behalf and on behalf of Grantee, that:

1. This requisition and all requisitions previously disbursed to or on behalf of Grantee under the Grant have been expended to make bulk meal purchases from New Jersey based restaurants negatively impacted by COVID-19 and not for any other use or purpose; and

2. The expenses covered by this requisition do not duplicate benefits received under any other program or from insurance or from any other source for the same purpose in accordance with the grant documents.

Terms used in this Certification shall have the same meaning as ascribed to them in the Grant documents that relate to the Sustain and Serve NJ Program unless expressly indicated otherwise. Pursuant to written policy, the New Jersey Economic Development Authority allows documents to be signed electronically and hereby agrees to be bound by such electronic signatures. Your signature below shall serve as evidence that the Grantee also agrees to be bound by electronic signatures.

**GRANTEE**:

**HEALTHBARN FOUNDATION INC.**

By: ____________________

Name: ____________________

Title: Authorized Officer

Date: ____________________

**DO NOT WRITE BELOW THIS LINE – FOR USE BY**

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY ONLY**

| | | | | |
|---|---|---|---|---|
| Designated Vendor Name: | | Product (P) Number: | | |
| Fund**: obtain from Enable/Accounting** | | Total Amount of Grant/Loan: | N/A | |
| Grant/Loan: | Grant | Total Amount of Prior Payment(**s):** | $ | |
| Term/Interest Rate: | N/A | Total Amount of Wire: | $ | |
| Closing Date: | __/__/2021 | Total Amount to be Escrowed: | $ | |
| | | Date & Time Wire Needed: | ASAP | |

☐ **Wire to be released after notification from Closing Services that all closing documents have been signed. THIS SECTION STAYS IN IF IT IS A WIRE.**

| | |
|---|---|
| **Reviewed by:** | **Approved by:** |
| Officer | Director – Tara Colton, EVP for Special Projects |
| Date: __/__/21 | Date: __/__/21 |

HealthBarn Foundation Inc.
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**EXHIBIT F**
**REIMBURSEMENT SCHEDULE**

Please note that, in accordance with the Agreement, grant funds will be disbursed incrementally based on the reimbursement schedule outlined below after submission of invoices documenting meal purchases up to $2,000,000.00. You will need to submit dated receipts or invoices for reimbursement of at least $20,000. If expenses incurred are less than $20,000, you must wait until the next reimbursement period once their expenses are at least $20,000. You may choose to submit less than once a month, but all expenses must be submitted for reimbursement by February 4, 2022. **Expenses submitted after February 4, 2022 will NOT be reimbursed.**

| **Reimbursement Submission Period** | **For expenses incurred from date of grant execution (i.e., date the agreement is signed by both the grantee and EDA) through** |
|---|---|
| August 30-31, 2021 | August 29, 2021 |
| September 27-28, 2021 | September 26, 2021 |
| October 25-26, 2021 | October 24, 2021 |
| November 29-30, 2021 | November 28, 2021 |
| January 3-4, 2022 | December 31, 2021 |
| February 3-4, 2022 | January 31, 2022 |